

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 9  
270 Michigan Avenue, Buffalo, NY 14203-2915  
P: (716) 851-7190 | F: (716) 851-7296  
www.dec.ny.gov

May 12, 2016

**NOTICE LETTER**  
**URGENT LEGAL MATTER – PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Mr. Richard Galloway  
Honeywell International, Inc.  
101 Columbia Road  
Morristown, New Jersey 07962

Dear Mr. Galloway:

New York State ("State"), through the efforts of the Department of Environmental Conservation ("Department"), has documented a release and/or threatened release of "hazardous substances" as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601 *et seq.* ("CERCLA") and the presence of "hazardous waste" as defined in Environmental Conservation Law ("ECL") §27-1301(1) at the Tonawanda Coke Corporation's ("TCC") by-product foundry coke manufacturing facility located at 3875 River Road, Tonawanda, New York 14150 ("Site"). The Site is listed in the New York Registry of Inactive Hazardous Waste Sites as Site No. 915055. It is a Class 2 site, consisting of approximately 160 acres. In response to these releases and threat of future releases, the Department anticipates spending public funds. These actions have been and will be taken by the Department pursuant to ECL Article 27, Title 12 and State Finance Law §97-b.

Under ECL Article 27, Title 13, and CERCLA, responsible parties are liable for monies expended by the State in taking response actions at and around sites where hazardous substances have been released, including investigative, planning, removal and remedial actions. Honeywell International, Inc. ("Honeywell") has been determined to be a responsible party as the Site's past owner and operator.

The process of remediating this Site consists of two phases. In the first phase, a remedial investigation will be conducted to determine the nature and extent of the contamination present at the Site. Analytical results from the investigations performed to date indicate the presence of widespread contamination on the Site and the need for investigation and subsequent remediation, if necessary. A Record of Decision for Operable Units 1 and 2 ("OU 1 and 2") was signed on March 31, 2008. The remedy for those two operable units requires the imposition of certain institutional/engineering controls, which are the responsibility of TCC. The investigation and remediation of OU 3 is being addressed pursuant to Order on Consent and Administrative Settlement, No. B9-85-02-77B, entered into between TCC and the Department. The remaining area of



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the Site not covered by the three operable units require further investigation and subsequent remediation, if necessary. Of particular concern is the portion of the facility where TCC reported "unknown product seeping up from the ground" which was later identified by TCC as coal tar, a listed hazardous waste.

Using data developed during the investigation, a Feasibility Study will be performed to define the objectives of a response action, develop and screen remedial action alternatives and analyze selected alternatives in detail. The Department will prepare a Record of Decision selecting a remedy for the Site. The second step of the remediation process involves the design and implementation of the selected remedy.

The purpose of this Notice Letter is to inform Honeywell of its liability as a responsible party, and to determine whether the company is willing to conduct or finance the remedial action for this Site. Any agreement by Honeywell to finance or undertake such activities must be memorialized in an administrative consent order. A similar letter has also been served upon TCC.

If Honeywell does not notify the Department that it is willing to enter into such order for the investigation and remediation of the remaining acreage of this Class 2 Site, the Department, at its sole discretion, may perform the necessary work at the Site using the Hazardous Waste Remedial Fund ("Fund"). If the Fund is used to remediate the Site, the Department is required to seek recovery from you as the responsible party for any expenses it incurs in conducting such activities, in which event, this letter also serves as a demand for payment of all monies the Department may expend for the investigation and remediation of this Site, plus any and all interest recoverable under 42 USC 9607 and any other provision of law. In accordance with 42 USC 9607(a), interest on such amount shall accrue as of the date of this letter.

It is imperative that discussions concerning an administrative consent order for this Site begin as early as possible. Honeywell's decision whether to enter into such an order should be provided to me by no later than **June 10, 2016**. If you decide to enter into a consent order, please note that I must have an order executed by Honeywell no later than **June 17, 2016**.

Please be advised that if I do not have a signed order by that date, all further negotiations will terminate, and the Department will undertake to implement the remedial activities directly and may pursue Honeywell International in the future to reimburse its expenditures.

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Please contact me should you have any questions or wish to discuss any matters addressed in this letter further.

Very truly yours,



Teresa J. Mucha  
Associate Attorney

TJM:jaf

ec: Chad Staniszewski, NYSDEC Regional Hazardous Waste Engineer  
Benjamin McPherson, NYSDEC Project Manager